HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
&
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.821 of 2007

Between:
M/s.Wockhardt Limited,
Plot No.18 & 19,Lakshminagar,
Behind T.B.Hospital, Hyderabad
Rep.by its Field Sales Officer Sri R.N.Murthy
And another

... APPELLANTS

AND
The Appellate Authority under Section 51 of the A.P.Shops & Establishment Act, 1988-cum-The Labour Officer-I, RTC 'X' Roads,
T.Anjaiah Karmika Samkshema Bhavan,
Hyderabad-500 020 and another

...RESPONDENTS

WRIT APPEAL No.822 of 2007

Between:
M/s.Wockhardt Limited,
Plot No.18 & 19,Lakshminagar,
Behind T.B.Hospital, Hyderabad
Rep.by its Field Sales Officer Sri R.N.Murthy
And another

.....
APPELLANTS

AND
The Appellate Authority under Section 51 of the A.P.Shops & Establishment Act, 1988-cum-The Labour Officer-I, RTC 'X' Roads,
T.Anjaiah Karmika Samkshema Bhavan,
Hyderabad-500 020 and another

...RESPONDENTS

WRIT APPEAL No.823 of 2007

Between:
M/s.Wockhardt Limited,
Plot No.18 & 19,Lakshminagar,

Behind T.B.Hospital, Hyderabad
Rep.by its Field Sales Officer Sri R.N.Murthy
And another

.....
APPELLANTS

AND
The Appellate Authority under Section 51 of the
A.P.Shops & Establishment Act, 1988-cum-The
Labour Officer-I, RTC 'X' Roads,
T.Anjaiah Karmika Samkshema Bhavan,
Hyderabad-500 020 and another

.....RESPONDENTS

WRIT APPEAL No.824 of 2007

Between:
M/s.Wockhardt Limited,
Plot No.18 & 19,Lakshminagar,
Behind T.B.Hospital, Hyderabad
Rep.by its Field Sales Officer Sri R.N.Murthy
And another

... APPELLANTS

AND
The Appellate Authority under Section 51 of the
A.P.Shops & Establishment Act, 1988-cum-The
Labour Officer-I, RTC 'X' Roads,
T.Anjaiah Karmika Samkshema Bhavan,
Hyderabad-500 020 and another

...RESPONDENTS

Counsel for the Appellants: Shri C.R.Sridharan

Dated: October 04, 2007

Per C.V. Nagarjuna Reddy, J

These appeals are directed against order dated 25.7.2007 passed by the learned Single Judge in Writ Petition No.22172 of 1997 and batch whereby he set aside the orders passed by the Appellate Authority-cum-Assistant Commissioner of Labour (for short, 'the Appellate Authority') and remanded the matter for fresh consideration in the light of the observations made by him.

The Facts:

Respondent No.2 in all the appeals are the employees of the appellants. For various reasons, they were asked to stop the work and were denied wages by the appellants for different periods. They filed applications under Section 51 of the Andhra Pradesh Shops and Establishments Act, 1988 (for short, 'the Act') for payment of wages for different periods along with bonus. The Authority constituted under the Act allowed their applications holding that the claim for wages during the disputed periods was maintainable under Section 51 of the Act and that the appellants have not paid wages wilfully and intentionally and without there being bona fides on their part. Accordingly, the Authority issued directions to deposit the claim amount along with one time compensation equal to the amount to be deposited.

The appellants challenged the orders of the Authority by filing appeals under Section 53 of the Act. The same were allowed by the Appellate Authority, who held that non-payment of compensation neither amounted to an illegal deduction nor did it constitute delay in payment of wages and that since the employees had themselves pleaded that they were prevented from working, the Authority should not have entertained the applications under Section 51. The Appellate Authority further held that delayed wages should be understood with

reference to Section 38 of the Act and that if wages payable and earned were not paid in the manner and time stipulated thereunder, claims arising out of such delay alone fell within the jurisdiction of the Authority under Section 50 of the Act.

The employees challenged the appellate order in Writ Petition No.22172 of 1997 and batch. After considering the rival contentions at length and analysing the provisions of the Act, the learned Single Judge concluded that the view expressed by the Appellate Authority on the ambit and scope of Section 38 of the Act was not correct and remanded the case for fresh adjudication of the appeals preferred by the appellants. Last two paragraphs of the order of the learned Single Judge read as under:

"It is wholly inappropriate for this Court, in certiorari proceedings, to examine the facts in issue and adjudicate on merits, as the Appellate Authority, under Section 53 of the Act, has set aside the orders under appeal holding that the expression "delay in payment of wages" should be understood in the limited context of Section 38 of the Act and it is only in cases where the wages payable, are not paid in the manner and the time stipulated thereunder, would claims arising out of such delay fall within the jurisdiction of the Authority. While an employee is entitled to be paid wages, for the work discharged by him, within the time stipulated under Section 38(1), the Authority has, in addition, the jurisdiction to examine the contract of employment, construe its terms and decide all questions which are intimately and integrally connected with payment of "wages" as defined in Section 2(23) of the Act. The Appellate Authority has committed an error of law in holding that the jurisdiction of the Authority under Section 50, in examining a claim of delayed payment of wages, is limited only to the manner and the time stipulated under Section 38 of the Act.

Ends of justice would be met, if the order of the Appellate Authority is set aside and the matter remanded for his consideration afresh in the light of the observations made hereinabove. Since the claim relates to payment of wages from October, 1993 onwards, and nearly 14 years have elapsed since then, the first respondent shall hear these appeals, and pass orders in accordance with law, at the earliest and, in any event, not later than four months from the date of receipt of a copy of this order. The writ petitions are allowed. However, in the circumstances, without costs."

Shri C.R. Sridharan, learned counsel for the appellants argued that the order impugned in these appeals is liable to be set aside

because the conclusion arrived at by the learned Single Judge is contrary to the law laid down by the Apex Court in **Sri Ambica Mills Ltd. v. B.E.S. Co. Ltd.**[1] He submitted that when the very entitlement of the employees to receive wages during the period of 'stop work' was in dispute, the Authority did not have jurisdiction to entertain the applications made under Section 51 of the Act and the interpretation placed by the learned Single Judge on Section 38 is ex facie erroneous.

In our opinion, there is no merit in the argument of the learned counsel. A reading of the order under challenge shows that the learned Single Judge analysed the entire case law on the scope and ambit of the jurisdiction of the Authority under the Act to entertain claims under Sections 50 and 51 of the Act. The learned Single Judge examined the scheme of the Act with reference to the definition of 'wages' under Section 2 (23) of the Act and made a critical comparison of the provisions of the Act and the Payment of Wages Act, 1936. He also considered the judgment of the Apex Court in **Sri Ambica Mills Ltd. v. B.E.S.Co.Ltd.** (supra) in detail and held that unlike Section 156(1) of the Payment of Wages Act, 1936, which fell for consideration in **Sri Ambica Mills Ltd. v. B.E.S.Co.Ltd.** (supra), the scope of Section 50 of the Act and the jurisdiction of the authority is not limited or restricted only to cases of admitted delay in payment of wages. The learned Single Judge further held that the jurisdiction of the Authority under Section 51 to adjudicate claims arising out of delay in payment of wages is intimately and integrally connected with payment of 'wages' as defined under Section 2 (23) of the Act, that its jurisdiction must also be read in the context of Section 38 and that if there is delay with reference to the point of time indicated in Section 38, then the employee is entitled to make a grievance of that fact and the Authority is entitled to order wages, which have not been paid and which should be paid in accordance with Section 38.

We are in complete agreement with the learned Single Judge that

the Authority had the jurisdiction to entertain the applications made by the respondents and the Appellate Authority committed a serious error by setting aside the order passed under Section 51 of the Act. In any case, we do not find any valid ground to interfere with the order of remand because, at the re-hearing of the appeals preferred by them, the appellants will be entitled to challenge the order of the Authority on all legally permissible grounds.

In the result, the appeals are dismissed.

As a sequel to dismissal of the writ appeals, W.A.M.P.Nos. 1637 to 1640 of 2007 in Writ Appeal Nos. 821 to 824 of 2007 respectively are also dismissed.

C.V. NAGARJUNA REDDY, J

October 04, 2007

G.S. SINGHVI, CJ

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[1] AIR 1969 SC 590